UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,091	10/18/2000	Corey Young	MCP 208	3750

7590 01/28/2004	EXAMINER
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ART UNIT	PAPER NUMBER
2144	

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/691,091	YOUNG ET AL.
	Examiner	Art Unit
	Tam (Jenny) Phan	2144

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 November 2003*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 October 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

13)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)
since a specific reference was included in the first sentence of the specification or in an Application Data Sheet.
37 CFR 1.78.

    a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific
reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

1.   Amendment A, paper #5, received on 11/12/2003 has been entered into record.

Claims 1-20 remain pending.

Priority

2.   This application claims benefit of the provisional application 60/167,551

(10/18/1999).

3.   The effective filing date for the subject matter defined in the pending claims

which has support in parent 60/167,551 in this application is 10/18/1999. Any new

subject mater defined in the claims not previously disclosed in parent 60/167,551, is

entitled to the effective filing date of 10/18/2000.

Drawings

4.   This application has been filed with informal drawings, which are acceptable for

examination purposes only. Formal drawings will be required when the application is

allowed.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6.   Claims 2 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by

Mogul (U.S. Patent Number 5,802,292).

7.   Regarding claim 2, Mogul disclosed a method for prequeuing of files predicted to

be desired by a user, comprising: defining a restrictive criteria to select a list of files

(Abstract, Figure 2, column 2 lines 22-44); automatically transferring files on the list,

through a telecommunication link, into a local cache, in anticipation of a user selection

thereof, files already transferred to the local cached having a shorter delay for review

than those which have not been previously transferred to the local cache (Abstract,

Figure 1, column 1 lines 59-65); an order of file transfer being responsive to the

prediction of user review requirements, the prediction being responsive to any change in

a user deviation from the predicted order (Title, Abstract, column 2 lines 7-16, column 4

lines 5-24); receiving a starting point within the list of files, for review, from the user,

such that predicted latencies for sequential file review from any starting point are

optimized (Abstract, Figure 2, column 3 lines 54-57, column 4 lines 5-24, lines 38-52).

8.   Regarding claim 15, the browser corresponds directly to the method of claim 2,

and thus is rejected using the same rationale.

9.   Since all the limitations of the claimed invention were disclosed by the Mogul,

claims 1 and 15 are rejected.

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

11.   Claims 1, 3-4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Van Ryzin et al. (U.S. Patent Number 6,446,080), hereinafter referred to as Ryzin,

in view of Pirolli et al. (U.S. Patent Number 6,098,064), hereinafter referred as Pirolli.

12.   Regarding claim 1, Ryzin disclosed a method for reducing latency in sequential

record browser, comprising the steps of: defining a sequential list of records (Figure 2,

Figure 5 sign 30); selecting a record from the list for review (Figure 2, Figure 5 sign 80);

downloading the selected, and records ordered sequentially thereafter until interrupted,

downloaded records being available for browsing absent the retrieval delay (Figure 2,

Figure 8 signs 86 and 88); interrupting the download by selecting a non-sequential

record from the list (column 3 lines 6-10); and downloading the non-sequential record

and records sequentially thereafter until interrupted (column 3 lines 66-67 and column 4

lines 1-3).

13.   Ryzin taught the invention substantially as claimed. However, in the step of

defining a sequential list of records, Ryzin did not teach the records having retrieval

latency.

14.   Ryzin suggested exploration of art and/or provided a reason to modify the

method to include the retrieval latency feature (column 4 lines 57-67).

15.   Pirolli disclosed a method of prefetching and caching involves computing need

probability for recorded documents in list of computer memory to minimize retrieval

latency.

16.   It would have been obvious to one of ordinary skill in the art at the time of the

invention was made to modify the method of Ryzin with the teachings of Pirroli to

include the retrieval latency feature in order to speed up access to a document that is

selected by a user (Pirolli, column 1 lines 27-31) since retrieval latency could be

minimized by anticipating the needs of the community of the users (Pirolli, Advantage).

17.   Regarding claim 3, Ryzin disclosed a method wherein said method is executed

by a browser application (column 4 lines 57-64).

18.   Regarding claim 4, Ryzin disclosed a method wherein said method if executed

by a browser plug-in or extension (column 4 lines 61-67 and column 5 lines 1-4).

19.   Regarding claim 6, Pirolli and Ryzin combined disclose a method further

comprising the steps of communicating through a network to a server hosting the

records (Figures 1-5); and presenting a list of record to a user, prior to receiving a

selection of a record from the user [prefetching technique] (Ryzin, Figures 2, 7a-7b, 9,

10; Pirolli, title, column 1 lines 27-31).

20.   Since all the limitations of the claimed invention were disclosed by the

combination of Ryzin and Pirolli, claims 1, 3-4, and 6 are rejected.

21.   Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Van Ryzin et al. (U.S. Patent Number 6,446,080), hereinafter referred to as Ryzin, as

applied above in view of Pirolli et al. (U.S. Patent Number 6,098,064), hereinafter

referred as Pirolli, and further in view of Schulhof et al. (U.S. Patent Number 5,557,541),

hereinafter referred as Schulhof.

22.   Regarding claim 5, Ryzin disclosed a method for reducing latency in sequential

record browser, comprising the steps of: defining a sequential list of records (Figure 2,

Figure 5 sign 30); selecting a record from the list for review (Figure 2, Figure 5 sign 80);

downloading the selected, and records ordered sequentially thereafter until interrupted,

downloaded records being available for browsing absent the retrieval delay (Figure 2,

Figure 8 signs 86 and 88); interrupting the download by selecting a non-sequential

record from the list (column 3 lines 6-10); and downloading the non-sequential record

and records sequentially thereafter until interrupted (column 3 lines 66-67 and column 4

lines 1-3). Pirolli disclosed a method of prefetching and caching involves computing

need probability for recorded documents in list of computer memory to minimize

retrieval latency.

23.   Ryzin did not disclose the step of cost accounting for downloading of each

record. However, Schulhof disclosed a distribution system that enables a subscriber to

select desired programs [download of each record] and to be charged for the service

[cost accounting of downloading records] (column 6 lines 33-40).

24.   Therefore, it would have been obvious to one of the ordinary skill in the art at the

time of the invention was made to employ the use of cost accounting to charge for

downloading materials in order to prevent copyright infringement should materials relate

to multimedia, literature, etc. Billing the subscribers for each record of downloaded

materials will prevent non-subscribers from abusing the network bandwidth.

25.   Regarding claim 7, Schulhof disclosed the steps of accounting for a downloaded

record; and limiting said downloading based on predetermined parameter (column 6

lines 33-40, column 8 lines 4-14, and column 9 lines 30-35).

26.   Since all the limitations of the claimed invention were disclosed by the

combination of Ryzin, Pirolli, and Schulhof, claims 5 and 7 are rejected.

27.   Claims 8-14 and 16-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Mogul (U.S. Patent Number 5,802,292) in view of Schulhof et al.

(U.S. Patent Number 5,557,541), hereinafter referred as Schulhof.

28.   Regarding claim 8, Mogul disclosed a method for prequeuing of files predicted to

be desired by a user, comprising: defining a restrictive criteria to select a list of files

(Abstract, Figure 2, column 2 lines 22-44); automatically transferring files on the list,

through a telecommunication link, into a local cache, in anticipation of a user selection

thereof, files already transferred to the local cached having a shorter delay for review

than those which have not been previously transferred to the local cache (Abstract,

Figure 1, column 1 lines 59-65); an order of file transfer being responsive to the

prediction of user review requirements, the prediction being responsive to any change in

a user deviation from the predicted order (Title, Abstract, column 2 lines 7-16, column 4

lines 5-24); receiving a starting point within the list of files, for review, from the user,

such that predicted latencies for sequential file review from any starting point are

optimized (Abstract, Figure 2, column 3 lines 54-57, column 4 lines 5-24, lines 38-52).

29.   Mogul did not expressly disclose a method wherein predicted latencies are

minimized. However, Schulhof disclosed an element wherein predicted latencies are

minimized by queuing the records in a fast hard disk drive (column 10 lines 53-61).

30.   Therefore, it would have been obvious to one of the ordinary skill in the art at the

time of the invention was made to employ a prequeuing system wherein the prequeuing

system is responsive to any change in the sequence of user review, such that predicted

latencies for sequential file review from any given starting point are minimized in order

to provide user with seamless stream of digital content. Latencies in a multimedia

digital content are usually unacceptable. Most users do not want to experience delay

when they are trying to listen to music or to watch a video stream (Mogul, column 1

lines 32-39, lines 60-65).

31.   Regarding claim 9, Schulhof disclosed a method wherein the transferring of files

is optimized based on both predicted latencies and a throughput of the

telecommunication link (column 9 lines 10-18, column 10 lines 57-61).

32.   Regarding claim 10, Schulhof disclosed a method wherein the transferring of files

is optimized based on both predicted latencies and an apparent strategy for review of

records by the user (column 10 lines 13-24).

33.   Regarding claim 11, Schulhof disclosed a method wherein the transferring of files

is optimized based on both predicted latencies and a cost of the record downloads

(column 10 lines 13-24, lines 41-44).

34.   Regarding claim 12, Schulhof disclosed a method wherein the transferring of files

is optimized based on both predicted latencies and a cost of on-line time (column 9 lines

27-35, column 10 lines 11-24).

35.   Regarding claim 13, Schulhof disclosed a method wherein the transferring of files

is optimized based on both predicted latencies and a value of the user's time (column 2

lines 13-28, column 8 lines 4-13, and column 9 lines 57-60).

36.   Regarding claim 14, Schulhof disclosed a method wherein the transferring of files

is optimized based on both predicted latencies and a burden on the server (column 9

lines 54-60, column 11 lines 20-25).

37.   Regarding claim 16, Schulhof disclosed a browser further comprising an

accounting system for accounting for downloading of each object (column 6 lines 33-

48).

38.   Regarding claims 17-19, the limitations of claims 17-20 correspond to the

limitations of claims 8-10, and 11, and thus these claims are rejected using the same

rationale.

39.   Regarding claim 20, Mogul and Schulhof combined disclose a browser wherein

the transferring of objects is optimized based on both predicted latencies ((column 10

lines 53-61) and a value of user's time (column 1 lines 32-44, column 4 lines 13-24).

40.   Since all the limitations of the claimed invention were disclosed by the

combination of Mogul and Schulhof, claims 8-14 and 16-20 are rejected.

Response to Amendment

41.   Applicants' arguments with respect to the pending claims have been considered

but are moot in view of the new ground(s) of rejection.

42.   Applicants' response to the application of Van Ryzin et al. in Amendment A,

paper #5, filed 11/12/2003, argued "Van Ryzin et al. did not disclose or suggest a

caching scheme to reduce delay". It is submitted that these limitations of the claimed

invention were disclosed by Pirolli et al. as detailed in the above rejection, and Van

Ryzin et al. is relied upon to combine the steps of defining, selecting, downloading, and

interrupting download process from a list of records.

43.   Applicants' response to the application of Katinsky et al. in Amendment A, paper

#5, filed 11/12/2003, argued "Katinsky et al. did not teach or suggest the buffering

(caching or prequeuing) of more than a single media stream, and indeed buffers the

stream after selection". It is submitted that these limitations of the claimed invention

were disclosed by Mogul as detailed in the above rejection. Schulhof et al. is relied

upon to combine the steps of minimizing predicted latencies and optimizing transferring

of files.

44.   As the rejection reads, Examiner asserts that the combination of these teachings

render the claimed invention obvious.

1.   In response to applicant's argument based upon the age of the reference

W)/0193161, examiner is respectfully withdrawing the reference as a prior art in regard

to the present invention. Examiner is appreciative of the courtesy shown by Applicants

in discussions this matter.

Conclusion

45.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

46.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

a.   Malkin et al. (U.S. Patent Number 6,085,193) disclosed a method and

system for prefetching data for clients in a proxy hierarchy to reduce object

access time through the network.

b.   Tsirigotis et al. (U.S. Patent Number 6,026,439) disclosed a method and

apparatus for dynamic cache preloading across a network. The caching server

preloads information from another server into its memory based on a set of

predetermined criteria.

c.   Wiser et al. (U.S. Patent Number 6,385,596) disclosed a secure online

music distribution system provides for purchasing of audio data and related

media over a network.

47.   Refer to the enclosed PTO-892 for details and complete listing of other pertinent
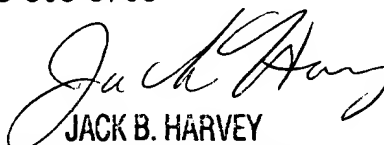
prior arts.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Tam (Jenny) Phan whose telephone number is (703)

305-4665. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jack Harvey can be reached on (703) 305-9705. The fax phone numbers

for the organization where this application or proceeding is assigned are (703) 746-7239

for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is (703) 305-

3900.

Jack Harvey
SPE
Art Unit 2142
703-305-9705

JACK B. HARVEY
SUPERVISORY PATENT EXAMINER

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January 21, 2004